

economic incentives for efficient network usage.³⁷ Such a regime, however, is obviously beyond the Commission's jurisdiction to implement, as the vast majority of ESP access calls are intrastate in nature.

Nonetheless, with respect to interstate calls, ESP usage creates identifiable costs that currently go unrecovered. Although assessing ESPs interstate access charges for this traffic is only a second-best solution, it is far preferable to the existing regime, where all parties escape responsibility for such costs.

The Commission should correct this anomaly -- at least until a permanent solution is developed -- by assessing interstate access charges upon ESPs, including Internet access providers. Under this approach, at least some responsible party is assessed the costs that are caused by interstate usage of information services.

Moreover, the Commission's proposal to retain the current exemption ignores history. The Commission adopted the current ESP exemption over twelve years ago to protect a then-infant industry.³⁸ Once such special protections are in place, there becomes a well-known tendency of infant industries never to grow up. The fact is that the ESP industry has grown up.

³⁷ This approach would recognize the economic truism that "a-minute-is-a-minute," regardless of the jurisdictional responsibility for a particular network connection.

³⁸ *MTS and WATS Market Structure*, CC Dkt. 78-72, Memorandum Opinion and Order, 97 FCC 2d 682 (1984); *Amendment of Part 69 of the Commission's Rules Relating to Enhanced Services Providers*, CC Dkt. 87-215, Order, 3 FCC Rcd. 2631 (1988).

There is no longer any policy justification -- if one ever existed -- for permitting ESPs (and, ultimately, their customers) to off-load the costs that they cause upon other users of the public switched network.

Conclusion

For the foregoing reasons, the Commission should act upon the proposals contained in the Notice in the manner suggested herein.

Respectfully submitted,



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Certificate of Service

I hereby certify that, on this 28th day of January, 1997, copies of the foregoing Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.



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